

20 OCTOBER 1947

I N D E X
Of
WITNESSES

<u>Defense' Witnesses</u>	<u>Page</u>
KIDO, Koichi (resumed)	31314
Cross (cont'd) by Mr. Keenan	31314
 <u>MORNING RECESS</u>	
Cross (cont'd) by Mr. Keenan	31336
Question by the President of the Tribunal, Sir William Webb	31337
	31343
 <u>NOON RECESS</u>	
Cross (cont'd) by Mr. Keenan	31355
 <u>AFTERNOON RECESS</u>	
Cross (cont'd) by Mr. Keenan	31357
	31378
	31379

I N D E X
Of
EXHIBITS

Doc. No.	Def. No.	Pros. No.	<u>Description</u>	For Ident.	In Evidence
1632-PP	3341		Entry from Marquis KIDO's Diary for 12 December 1938		31391

Monday, 20 October 1947

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting, with the exception of: HONORABLE JUSTICE R. B. PAL, Member from India, not sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese to English interpretation was made by the Language Section, IMTFE.)

L
e
f
f
i
e
&
W
o
l
f
1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.
3
4 THE PRESIDENT: All the accused are present
5 except SHIRATORI who is represented by counsel. We
6 have a certificate from the prison surgeon at Sugamo
7 certifying that SHIRATORI is unable to attend the trial
8 today owing to illness. The certificate will be recorded
9 and filed.

10 Mr. Chief of Counsel.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

KOICHI KIDO, an accused, resumed the stand
and testified through Japanese interpreters as
follows:

CROSS-EXAMINATION

BY MR. KEENAN (Continued):

Q I believe before the recess, or at the recess
on Friday, I asked you if you would come back prepared
to tell us the most notable incidents in your actions
where you had advised the Emperor or urged the Emperor
to lend his personal or his official powers towards
subduing the militarists here in Japan.

A Yes, I recollect so.

Before making a reply to your question, I
should like to be permitted to make some correction
with respect to some misunderstanding or misapprehension

1 on my part last Friday.

2 Q Well, before we ask to have that blanket
3 permission given, would you be good enough to indicate
4 whether it has reference to some question that was
5 asked you which you misunderstood, or some answer that
6 you gave that you didn't intend to give?

7 A In response to a question to the effect: Wasn't
8 there some threat to the safety of His Majesty, I said
9 that I did not say so.

10 Q You want to change that answer now; is that
11 what I understand the correction you desire to make?

12 A Yes.

13 Q All right. Will you tell us what you did
14 mean to say at that time in answer to my plain question
15 whether or not you intended to say that there was
16 danger to the Emperor, and please answer it as briefly
17 as possible without any dissertation.

18 A In my affidavit I have used the word "the safety"
19 of His Majesty, the Emperor. This word "Antai," which
20 I used in my affidavit, has been interpreted into
21 English as "safety." However, the Japanese word "Goantai"
22 has a much broader meaning.

23 My feeling at that time was that the persons
24 close to His Majesty, the Emperor, may be removed; that
25 their position might be taken over by those who were

1 advocating very positive ideas, thus bringing the --
2 thus creating a situation of uneasiness and anxiety
3 to His Majesty. And for that reason I made a mistake
4 in my -- I was incorrect in my reply to the question,
5 because it had happened to pertain to the personal --
6 pertained to the threat or danger to the person of His
7 Majesty, the Emperor. That is all.

8 Q Well, let us leave the dialectics for a moment,
9 Mr. KIDO, and get to the point. What is the truth?
10 At that time did you have apprehension about the actual
11 safety, physical safety, of the Emperor of Japan from
12 these militarist forces?

13 A I do not think of the Army causing any direct
14 danger to the person of His Majesty, the Emperor. As
15 I have said before, my first concern and worry was that
16 if the coup d'etat takes place, and persons close to the
17 Emperor were removed from office and replaced by those
18 activist elements who were advocating positive action,
19 if these men became close to the Emperor, that would
20 repress His Majesty and place him in a very difficult
21 position. That was my concern.

22 Q What do you mean by repressing His Majesty
23 and placing him in a difficult position?

24 A That is to say, that I was extremely anxious
25 over the fact that the activist or positivist elements

1 would take control and by such actions suppress his
2 actions, suppress His Majesty, the Emperor, so that
3 the Emperor would not be able to do things as he wished.

4 Q Well, let us get a little more light on what
5 you mean by the word "suppressed." What would be the
6 mechanics of suppressing the Emperor of Japan by these
7 men that you speak of, or these forces?

8 A That is to say, a person of very positivist
9 ideas would take the position of the Lord Keeper of
10 the Privy Seal and give advice to His Majesty which
11 would reflect positivist ideas, so that the general
12 atmosphere around the Throne would be controlled by
13 those in high office, not only that of Lord Keeper of
14 the Privy Seal, but of the Government itself, so that
15 His Majesty, the Emperor, would be prevented from denying
16 or rejecting the advice of those around him.
17

18

19

20

21

22

23

24

25

1 Q In other words, Mr. KIDO, when I asked you
2 to define the word "repression" or "to repress the
3 Emperor of Japan," you reply, "Having the wrong man,"
4 for one example and the outstanding one, the beginning
5 one, "Having the wrong man for the Keeper of the Privy
6 Seal." That would be a method of repression of the
7 Emperor?

8 A That would be one illustration, and even the
9 government itself would be constituted by men who
10 advocated positivist ideas.

11 Q In order to shorten these proceedings as much
12 as possible, will you indulge me a moment so we can
13 get some definitions and talk in the plainest language
14 possible.

15 Q You use the term "activist." What do you
16 mean by activist?

17 A Elements who would very positively carry out
18 certain measures.

19 Q What do you mean by the term "positivist"?

20 A Persons entertaining very strong ideas.

21 Q And, what do you mean by the term "rightist"?

22 A By rightists, I mean men who entertain strong --
23 very strong ideas and who are also of nationalistic
24 leanings.

25 Q Now, you have repeatedly referred to "strong

1 ideas." Strong ideas about what, briefly?

2 A By that I mean the ideas of those who, both
3 internally and externally, advocated reforms.

4 Q Did you say "reforms"?

5 A If time permits, I should like to give a
6 description or explanation of the political situation
7 at that time. At that time, the atmosphere and
8 tendencies toward internal reforms was extremely
9 strong.

10 Q Mr. KIDO, you have done that for almost three
11 days under direct examination of your counsel. I'd
12 rather not go back over that ground again. Wouldn't
13 it be safe to group all of that -- of those various
14 segments together and say they were the advocates of
15 force and aggression?

16 A They were not confined merely to the advocates
17 of aggression. Of course, these elements would be
18 included.

19 Q Rather, force and aggression, as a policy,
20 would be included among the policies of all of them
21 in different shades?

22 A Yes, they depend on the person, as you say,
23 in different degrees. Of course, there were such
24 persons.

25 Q For example, you used the accused OKAWA as

1 an example of one of the prominent leaders of the
2 rightist movement?

3 A Yes.

4 Q So there will be no doubt about it, I am
5 talking about the OKAWA who was in the dock until he
6 was pronounced temporarily insane by the doctors.
7 You understood that?

8 A Yes, I understood that.

9 Q Now, the term "coup d'etat" is quite well
10 understood in all nations, isn't it?

11 A Yes.

12 Q There is nothing blurred about the meaning
13 of that, is there?

14 A Nothing, except in the sense that the word
15 is ordinarily used.

16 Q And, I assume you gave it its ordinary mean-
17 ing, that is, you meant to?

18 A Yes, that is so.

19 Q And, that means overthrowing the present
20 reigning government or power -- withdraw that question.
21 It means overthrowing the government, does it not?

22 A Yes.

23 Q And, a coup d'etat here in Japan would mean
24 overthrowing the Emperor?

25 Q No, it would not be that. The various

1 incidents would have been planned, such, for instance,
2 the March Incident or the October Incident did not
3 aim at that at all; neither did the February 26
4 Incident.

5 This might be going back into ancient
6 history, but there was an incident called the War
7 of Seinan in the 10th Year of Meiji, 1877. At that
8 time, the intention of SAIGO was to eliminate those
9 who were close to the Throne, and various incidents
10 which occurred thereafter were not to do anything
11 about the Emperor but to remove disloyal subjects
12 close to the Throne.

13 Q Very briefly, so we can get on, what offices
14 were occupied by those close to the Throne?

15 A Those who were made objects of such inci-
16 dents were the Grand Chamberlain, the Lord Keeper of
17 the Privy Seal, the Minister of the Imperial House-
18 hold Department, just to give an example.
19

20 Q Now, of course, the Grand Chamberlain had
21 nothing whatever to do with politics in any way, did
22 he?

23 A No, he did not have any connection.
24
25

K
a
p
l
e
a
u
&
K
n
a
p
p
p
1 Q And no one thought he did at the time we are
2 speaking of; at least, not in the Tenth Century but in
3 the present era?

4 A Actually, the Grand Chamberlain had no rela-
5 tions with politics at all, but Grand Chamberlain
6 SUZUKI at that time was regarded -- was looked upon
7 as having had various connections with the London
8 Naval Conference. During the February 26 Incident, he
9 was actually an object of attack and was seriously
10 wounded as a result.

11 Q The Imperial Household Minister had nothing to
12 do with politics at all, did he?

13 A No.

14 Q That leaves only the Lord Keeper of the Privy
15 Seal and, during his lifetime, the Genro. They could
16 be said to have to do with things political in Japan
17 in that they gave advice officially to the Emperor?

18 A Yes.

19 Q And are you meaning to tell us, then, that the
20 term "coup d'etat" as you used it had to do merely with
21 doing away with the Lord Keeper of the Privy Seal and
22 with the Genro, but not with the Emperor? Is that it?

23 A Yes.

24 Q Now, when we come to the powers and duty of the
25 Emperor, that is provided for in the Constitution of Japan,

is it not? They are, are they not?

1 A Yes.

2 Q Now, your noted grandfather, Marquis KIDO, was
3 one of the three men who had largely to do with that
4 Constitution, is that not true?

5 A Yes.

6 Q And you, yourself, were quite a student of it?

7 A Yes, it was one of my studies while at school.

8 Q You studied law, did you not, at the Imperial
9 University at Tokyo?

10 A Yes.

11 Q And your predecessor, YUASA, was a profound
12 and known student of the Constitution of Japan, was he
13 not?

14 A Mr. YUASA was not a particular or special
15 student of the Constitution. He was one of the offi-
16 cials which came from the Ministry of Home Affairs.

17 Q Now, the Constitution itself is a rather
18 compact instrument of seven chapters?

19 A Yes.

20 Q And it became effective as law in Japan about
21 the time that you were born?

22 A Yes.

23 Q So that the point I am making is that it is
24 no ancient instrument, it is a real modern instrument

1 with such changes as have occurred within the lifetime
2 of one person, to wit, yourself?

3 A Yes.

4 Q Does that include any traditional changes from
5 the written Constitution itself-- changes brought about
6 by tradition?

7 A I do not think there was any special change
8 made in the tradition -- in the Constitution.

9 Q Then was this the first written Constitution
10 in Japan?

11 A Yes.

12 Q So that it may be assumed, as far as you know,
13 the Constitution so put into effect within the last
14 sixteen years meant what it said and was so intended?

15 A With regard to that, there have been various
16 arguments from the very outset.

17 Q Very briefly, what side do you take? Did it
18 mean what it said and was it so intended, or do you dis-
19 agree with that?

20 THE PRESIDENT: Mr. Logan.

21 MR. LOGAN: Your Honor, I object to this line
22 of questioning. I think the Chief Prosecutor is getting
23 off into something very intangible. The interpretation
24 of the constitutions of all nations is constantly under
25 discussion. I do not see how this line of questioning

1 can be of any assistance to the Tribunal.

2 MR. KEENAN: Mr. President, I intend to make it
3 very pertinent, with the next question, too. I would
4 like to know this man's view on it. He was the Lord
5 Keeper, he had the duty of interpreting the powers
6 practically of the Emperor of Japan. I want to know
7 what his belief was about it. I believe this enters
8 into the salient issues of this case.

9 THE PRESIDENT: Subject to what my colleagues
10 think, it does occur to me that what the Constitution
11 of Japan is is a question of fact like any question on
12 foreign law would be to a national court. I know that
13 we can judicially notice matters and it may be well
14 within our province to judicially notice the Constitu-
15 tion of Japan, but the prosecution has assumed that it
16 is a matter of fact and they have tendered the Consti-
17 tution.

18 Now, in these matters of fact we are entitled,
19 indeed obliged, to receive the evidence of experts in
20 the foreign law if it is offered, and this man is
21 offered as an expert. If there is any objection on the
22 ground that he is not qualified, then we must hear it,
23 but we have heard no such objection yet.

24 MR. KEENAN: Mr. President, from the standpoint
25 of prevailing in a lawsuit or getting on with it, the

1 Chief Prosecutor would like very much to agree with the
2 President's expression, but he does not in this sense:
3 We are not trying to prove what the Constitution of
4 Japan really is through this witness -- the law. We
5 go beyond that.

6 THE PRESIDENT: What your purpose is is a matter
7 for you to state. I can only guess at it.

8 MR. KEENAN: Perhaps, Mr. President, if it is
9 admitted by the Court that is sufficient, but I do
10 think it is the duty of the Chief of Counsel to keep
11 constantly before the Court its theory of this prosecu-
12 tion; not the Court's theory, with great respect, but
13 the prosecution's theory, and to do it consistently,
14 respectfully, but directly.

15 May the question be answered, Mr. President?

16 THE PRESIDENT: If you are endeavoring to
17 establish a guilty mind, something personal to him, we
18 cannot stop you. Besides, it is for you to say what
19 the view of the prosecution is about things. We do not
20 want to impose our views on yours, yet.

21

22

23

24

25

1 Q Will the witness now answer the question as
2 to what side he stood on, briefly, in the controversy;
3 namely, did he take the position that the constitu-
4 tion enacted and promulgated by the Emperor within
5 the last sixty years said what it meant to say or
6 did not?

7 MR. LOGAN: If the Tribunal please, I object
8 to that question on the ground that it is too general.
9 We don't know what controversy he is speaking about,
10 what particular period of time, or what particular
11 interpretation he has in mind. I don't see how the
12 witness can answer that.

13 THE PRESIDENT: I will ask the shorthand
14 reporter to repeat the question, as it was put while
15 my associate was addressing a question in writing to me.

16 MR. KEENAN: To avoid controversy, Mr. Presi-
17 dent, and shorten these proceedings, I will withdraw
18 that question and put another one.

19 Q Regardless of the general powers of the Emper-
20 or set forth in this constitution, including Article 4,
21 which states, and I quote: "The Emperor is the head
22 of the empire, combining in himself the rights of
23 sovereignty and exercising them according to the pro-
24 visions of the present Constitution," doesn't Article 8
25 provide as follows? "The Emperor in consequence of an

1 urgent necessity to maintain public safety or to
2 avert public calamities issues when the Imperial
3 Diet is not sitting Imperial ordinances in the place
4 of law."

5 MR. KEENAN: Language Section, do you want the
6 exhibit number of the Constitution? because it is an
7 exhibit in this case. Is that what you want?

8 THE MONITOR: Yes, sir.

9 MR. KEENAN: It is exhibit 68. It is docu-
10 ment 199.

11 | THE MONITOR: Thank you very much, sir.

12 Q Now, the question, to make it clear, is that,
13 regardless of the general powers, was there any ques-
14 tion but that the Emperor of Japan had and was expect-
15 ed to exercise the powers set forth in Article 8?

16 Article 8, just quoted, refers to a time when
17 the Imperial Diet is not in session, and stipulates
18 that the government may promulgate emergency Imperial
19 ordinances when necessary. It does not mean that the
20 Emperor is authorized to do anything.

22 To state this matter a little more concrete-
ly --

c Please do.

25 A (Continuing) His Majesty the Emperor may tell the government, "How about doing this or doing that?"

1 The government upon receiving such a message from
2 the Throne studies the matter, drafts it, and it
3 becomes law -- effective only after the Imperial
4 sanction is given.

5 Q Well, at least, then, the Emperor has the real
6 power of saying, "How about doing this?" That is not
7 paper power; that is real?

8 A But the Imperial power is restricted in the
9 sense that the -- that His Majesty the Emperor ad-
10 ministers the affairs of government with the assist-
11 ance and on the advice of ministers of state.

12 Q But in any event, the act or the law, or what-
13 ever it is that is under consideration, cannot become
14 effective without his consent if he decides not to
15 give his consent, is that true? And when I am asking
16 that question I am directing your attention to his
17 actual power and not his formal power under the con-
18 stitution.

19 A As I have said before, the wishes or the will
20 of the state becomes complete only with the advice and
21 assistance of the ministers of state.

22 There is also the matter of the Imperial sanc-
23 tion. However, as far as His Majesty the Emperor is
24 concerned, he may give words of advice and caution to
25 the government, but once the government has decided on

1 a certain policy, it has been the consistent attitude
2 of the Emperors since the Meiji Era not to veto any
3 such measure. This is the custom which has developed
4 after the actual operation and effectuation of the
5 constitution throughout the period of Japan's con-
6 stitutional history.

7 Q "Well, to withdraw this from the area of muddled
8 and blurred interpretation and to be specific, are you
9 intending to say that if the cabinet agreed upon war
10 the Emperor of Japan would have no actual power to
11 prevent it?

12 A Yes, the Emperor had no power to prevent it.

13 Q So his signing of the rescript was a mere
14 gesture, is that so?

15 A I don't understand the meaning of the word
16 "gesture." What do you mean?

17 Q A fraud in this instance -- a fraud upon the
18 people of Japan to make them believe that it was the
19 act of their Emperor when in truth and in fact he
20 couldn't do anything else regardless of his real
21 wishes and desires and his feelings for the best
22 interests of Japan.

24

25

Y
e
l
d
e
n
&
G
r
e
e
n
b
e
r
g
1 THE PRESIDENT: Mr. Chief of Counsel, we
2 are not trying the Emperor, and it does occur to
3 me -- I may be wrong; I do not know what my colleagues
4 think -- that these questions, if warranted at all,
5 would be on the basis that the witness is an expert
6 on Japanese constitutional law. They do not seem to
7 me to bear on his own state of mind, that is to say,
8 on the question of whether he has or has not a guilty
9 mind or had or had not in those circumstances.

10 MR. KEENAN: Mr. President, I would like to
11 have this Lord Keeper of the Privy Seal answer this
12 one question. But, if the Court thinks it is object-
13 ionable, I will not press it.

14 THE PRESIDENT: I have no desire to pre-
15 vent you from asking that question, but I did want
16 to discover what your purpose was, so put your ques-
17 tion you have in mind now to put.

18 MR. KEENAN: I will reframe it, Mr. Presi-
19 dent, with this colloquy in view.

20 Q To answer your question of what I mean by
21 "gesture," I mean, was it not intended to cause the
22 people of Japan to believe that this was the real
23 will of the Emperor himself and this was a war which
24 he authorized and believed to be in the best inter-
25 ests of his people?

1 A Is your question related to the Pacific
2 War or is your question related to Japan's position
3 as regards war in general?

4 Q Well, I will confine it for the moment to
5 the war which started upon the attack upon Pearl
6 Harbor, and you can name it.

7 A At that time the government's explanation
8 was that there was no alternative but for the nation
9 to rise in arms for the defense and existence of the
10 Empire, and, therefore, Japan was by such circum-
11 stances placed in a position where war was unavoid-
12 able. Now, the matter of the Imperial Rescript was
13 something that came together with, parallel with,
14 the decision for war and was a natural act. That
15 is all.

16 Q Have you just given your own opinion or
17 that of the Emperor of Japan in your last statement?

18 A I was speaking to you about my observations
19 at that time.

20 Q Was that your view and judgment?

21 A Yes.

22 Q So that you were in favor of this war, were
23 you not?

24 A No. Inasmuch as the decision had already
25 been made by the government, whatever may have been

1 my personal views or opinions, I had no authority to
2 oppose.

3 Q We may come to those at a later stage of
4 the examination. But, while on the subject, is it
5 not true that the Emperor did have actual power **and**
6 had the duty of becoming informed and acting upon
7 his own judgment in the selection of Prime Minister?

8 A This, too, was a custom which has prevailed
9 for a long period of time, and in the earlier days
10 inquiry of the Throne upon such questions was ad-
11 dressed to the Genro and in later years to the Lord
12 Keeper of the Privy Seal. When such questions arose
13 the Lord Keeper of the Privy Seal consulted with the
14 Senior Statesmen and, after gathering together the
15 opinions aired by the Senior Statesmen, reported the
16 matter to the Throne and the Emperor used such infor-
17 mation as had been reported to the Throne by the
18 Lord Keeper of the Privy Seal as reference and acted
19 thereupon -- and acted on the basis of the informa-
20 tion presented to him.

21

22

23

24

25

1 Q So that the Emperor was dependent upon the
2 information that he would get, chief of all, from
3 his Lord Keeper of the Privy Seal in making his
4 selection of Premier?

5 A The Emperor's instructions to the Lord
6 Keeper of the Privy Seal is to consult the Senior
7 Statesmen on the selection of a suitable person to
8 occupy the post of next Prime Minister and to
9 recommend a suitable person for that position.

10 Q But didn't you yourself point out the way
11 to the Emperor, either directly or indirectly point
12 out to him, the manner in which he could get the
13 War Minister he wanted?

14 A I could not comprehend the question.

15 Q Specifically, didn't you pass the word on
16 to the Emperor that if he wanted to choose a particular
17 man for War Minister he should employ this method,
18 namely, either to call the outgoing War Minister and
19 tell him who his, the Emperor's, choice was, or send
20 his Chief Military Aide-de-Camp to the proper author-
21 ity -- to the Big Three ministers for such purpose?

22 I will withdraw the question.

23 Mr. KIDO, I will call your attention to
24 your diary entry of 28 August 1939 -- it is exhibit
25 in this case 2272 -- and, to shorten the matter,

1 recall to your mind that that was at the time that
2 General ABE paid a visit to Prince KONOYE. I will
3 just read briefly this paragraph which is from the
4 diary:

5 "According to the Prince," -- KONOYE --
6 "he was paid a visit by General ABE and the General
7 told him that he had been ordered by the Emperor to
8 organize a new Cabinet and that the Emperor had given
9 him instructions on the following three points,
10 which embarrassed the General very much."

11 I think there is a correction on that:
12 "which, being unexpected, seemed to have embarrassed
13 the General very much."

14 "1. Either UMEZU or HATA should be
15 appointed War Minister.

16 "2. Diplomatic policy should follow the
17 line of cooperation with Britain and the United
18 States.

19 "3. Discretion must be used in choosing
20 the Home Minister and the Justice Minister, as the
21 maintenance of public order was of supreme import-
22 ance."

23 Now, this is your language:

24 "After thinking over the matter, I telephoned
25 Prince KONOYE at 0030 a.m. and expressed my opinion

1 to him as follows, with which the Prince agreed.

2 "Points 2 and 3 above could in any case be
3 disposed of at the discretion of General ABE, but
4 as for the nomination of the War Minister by the
5 Emperor, there was a danger, if it were left to
6 take its own course, that it might bring about a
7 clash with military circles. So it was advisable
8 that the Emperor should summon the War Minister
9 or let the Chief Aide-de-Camp to His Majesty convey
10 to the Army the Imperial Order given to General ABE
11 as to the selection of the War Minister, and let
12 the Three Chiefs of the Army recommend the War Minister.

13 "I requested Prince KONOYE to convey my
14 opinion to General ABE."

15 May the witness be presented with this
16 part of his diary?

17 THE PRESIDENT: He may, but we will recess
18 now for fifteen minutes.

19 (Whereupon, at 1045, a recess was
20 taken until 1100, after which the proceedings
21 were resumed as follows:)

22

23

24

25

M
o
r
s
e

&

W
h
a
l
e
n

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.
3 THE PRESIDENT: Captain Kraft.
4 THE LANGUAGE ARBITER (Captain Kraft): If the
5 Tribunal please, we reaffirm the translation of the por-
6 tion of the KIDO Diary as given on record page 16,210,
7 lines 4 to 13 of the English transcript.

8 We find the English translation recorded in
9 transcript page 31,276, lines 12 to 14, is substantially
10 correct.

11 THE PRESIDENT: Thank you, Captain.

12 Mr. Chief of Counsel.

13 CROSS-EXAMINATION

14 BY MR. KEENAN (Continued):

15 Q Have you examined the entry in your diary of
16 28 August 1939 in the recess?

17 A I have not yet seen it.

18 Q I am only referring to that matter in the middle
19 of the page; have you read it?

20 A Yes, I have seen it.

21 Q Were you not advising the Emperor the manner
22 in which he could bring about the selection of the War
23 Minister to be desired?

24 A No, not so. I was not holding any public office
25 at that time. It was after I had tendered my resignation.

1 However, Prince KONOYE consulted me on how to handle
2 this particular problem.

3 Q All right, Mr. KIDO, read the last sentence
4 from that diary, entry that day. Read it out loud,
5 please.

6 I have reference to this language: "I requested
7 Prince KONOYE to convey my opinion to General ABE." Is
8 that in your diary?

9 A Yes. As I have stated I regarded as advisable
10 that the matter be conveyed to General ABE by Prince
11 KONOYE.

12 Q Well, you advised also that the matter to be
13 conveyed was the Emperor's choice for the War Minister;
14 isn't that a fact?

15 A It was nothing more than a word of advice to
16 avoid any clash with the Army with regard to the Emperor's
17 method of choice of the War Minister.

18 Q Well, to state the matter concretely: Isn't
19 it true that you described the method by which the
20 Emperor of Japan could get the War Minister of his
21 choice, and you were giving advice upon that subject,
22 and asking that the advice be passed on to the Prime
23 Minister, ABE?

25 A I was asked my opinion by Prince KONOYE, and
on the basis of my experience in the past I gave my

1 views to him.

2 Q And the Emperor did recommend the appointment
3 to be UMEZU or HATA, and he got General HATA, didn't he?

4 A Yes.

5 Q And HATA at that time was his chief aide-de-camp?

6 A Yes.

7 Q So that it was quite apparent there was a good
8 deal of personal choice involved in that appointment?

9 A Yes.

10 Q And General -- Marshal HATA lasted through two
11 cabinets, which was a pretty good record for a War
12 Minister at that time, isn't that right?

13 A Yes, he was War Minister in two cabinets.

14 Q And he broke up the YONAI Cabinet, didn't he?

15 A It appears that way because the YONAI Cabinet
16 collapsed as a result of his, that is HATA's, tendering
17 of his resignation.

18 Q Well, you were Lord Keeper of the Privy Seal
19 at that time, weren't you?

20 A Yes.

21 Q And your close friend and associate, Prince
22 KONOYE, assumed the position of -- took the position of
23 Prime Minister for the second time?

24 A Yes.

25 Q So that was one instance that we know of and

KILO

CROSS

31,340

1 that you know of where the Emperor of Japan wanted a
2 specific man for War Minister he was able to get it?

3 A Of course it was only natural that if the
4 Emperor expressed such a desire, and if there were no
5 objections to a particular man by the Cabinet, such a
6 man would be placed in office.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Q Do you recall in paragraph 146 of your affidavit,
2 page 109 of the English version, you are referring in
3 general in that paragraph to the selection of a prime
4 minister, and did you not say that on that occasion --
5 I assume it is the seventeenth of July, 1940, from your
6 testimony -- and I am now reading from it, "When I
7 reported to His Majesty he asked me if I could give
8 KONOYE some advice and I told him that Prince KONOYE
9 should be especially prudent in the choice of Foreign
10 and Finance Ministers due to conditions at home and abroad."
11 Do you recall you said that under oath a short while ago?
12

13 It is the next to the last sentence of the para-
14 graph and I am told I made an error in a pronoun that is
15 important. It is so important, Mr. President, that I
16 would ask permission to correct it if I have made one.
17 Of course the document speaks for itself. It reads:
18 "When I reported to His Majesty he asked me if he could
19 give KONOYE some advice and I told him that Prince KONOYE
20 should be especially prudent in the choice of Foreign
21 and Finance Ministers due to conditions at home and abroad."
22 Now, as I understand your language, you are stating to
23 this honorable Tribunal that when the Emperor of Japan
24 wanted to find out whether he could give some advise to
25 his Prime Minister he asked you first whether he could
so do, and that was in July, the middle of July of 1939 --

1 1940. What do you say? Is my interpretation correct of
2 that statement?

3 A No, that isn't exactly so. When there was
4 something -- some doubt, or when the Emperor was unable
5 to make any decision, then at such a time he would call
6 me for consultation. However, taken as a whole such
7 actions were very rare.

8 THE PRESIDENT: On that occasion he did not want
9 your permission but he wanted suggestions if you had any,
10 I suppose.

11 THE WITNESS: Of course it was as stated by you,
12 Mr. President.

13 Q Well, then, do you want to change the language
14 that you have made under oath in this affidavit because
15 you certainly don't say that, and I point out to you
16 your language is, and I quote it slowly, "When I reported
17 to His Majesty he asked me if he could give KONOYE some
18 advice." Now, was that language haphazardly chosen by
19 you or was it chosen with great care when you prepared
20 your affidavit considerably before you got on the witness
21 stand -- a considerable length of time before you got on
22 the witness stand?

23 A At this time I wrote the words "if he might give,"
24 etcetera, and I have no doubt as to the expression I used.

25 Q Well, then, let us get to the truth of the matter.
Did the Emperor ask you if he could give KONOYE some

1 advice on his incoming Prime Minister? Did he or did he
not?

2 A Yes.

3 Q Was that customary, for him to ask you if he
4 could give advice to his Prime Minister, his incoming
5 Prime Minister?

6 A Not always, but such occasions occurred from time
7 to time.

8 Q Did it not seem strange to you that the Emperor
9 of Japan would ask you if he could give advice to his
10 own Prime Minister that he was about to name?

11 A Of course, these private talks with the Emperor
12 were not official and, consequently, I thought it was not
13 strange at all to have talks with him on various subjects.

14 Q Are you now attempting to tell us that at this
15 time you mention in your affidavit he was not addressing
16 you as Lord Keeper of the Privy Seal but as a personal
17 friend?

18 A No, in my capacity as Lord Keeper of the Privy
19 Seal.

20 THE PRESIDENT: I have received the following
21 memorandum from a Member of the Court. It reads: "The
22 other day the prosecution fought to demonstrate that the
23 Emperor reprimanded ITAGAKI personally, so the prosecution
24 knows that the Emperor can give opinions to his ministers

and what is the use of this cross-examination?"

1 MR. KEENAN: If that is a question addressed
2 to the Chief of Counsel, if I know the author of that
3 remark I could better and more intelligently reply to
4 it. If that is the opinion of this Court, that it is
5 established to this Court's clear satisfaction that the
6 Emperor of Japan could choose his ministers and was in
7 substance as well as in form the ruler of Japan, I have
8 no desire to proceed further. I am trying to explore,
9 to find out what the facts are, to develop the guilt
10 or innocence of the accused on the stand and some other
11 accused.

12 THE PRESIDENT: It is a question put by the
13 particular Member of the Court through me to the Chief
14 of Counsel. As to the attitude of other Members of the
15 Court I can say nothing because I have not endeavored to
16 ascertain.

17 MR. KEENAN: Well, I would say this, Mr. President
18 with great respect. It is most unusual during the course
19 of an important cross-examination to have counsel explore
20 fully what the purposes of his questions are until he
21 finishes a particular subject. If I am required to do
22 so, I am prepared to state exactly what our theory is
23 and why I want this information. If the Court means to
24 respectfully request me to desist from this course of

1 cross-examination, of course I will comply. If not, I
2 would like permission to proceed without interruption
3 of such nature.

4 THE PRESIDENT: You may withhold your answer
5 until you have completed your cross-examination on this
6 section, Mr. Chief of Counsel.

7 MR. KEENAN: I am somewhat at a loss for the
8 moment to know what the last question and answer was
9 before the interrogation of counsel. What is the last
10 question and answer?

11 (Whereupon, the last question and
12 answer were read by the official court reporter
13 as above recorded.)

14

15

16

17

18

19

20

21

22

23

24

25

D
u
c
c
&
i
p
r
a
t
t

1 Q ...o that briefly it was proper and customary,
2 if he saw fit, for the Emperor to disclose whom he
3 wanted as one of his ministers as well as as Prime
4 Minister?

5 A No, not so. There is hardly any instance
6 of the Emperor saying anything with regard to the
7 selection of ministers of state or giving any in-
8 structions to appoint certain persons as ministers of
9 state.

10 Q Well, we have just finished one very im-
11 portant instance, when he selected, virtually se-
12 lected, the general, Marshal KITA, as the War Minis-
13 ter.

14 A Well, in that case there were two candi-
15 dates, KITA and UMEZU, whom the Emperor put forth
16 as his desire as War Minister, but he did not issue
17 any direction as to who the post should be given to.

18 Q Now, with reference to the selection of the
19 foreign and finance ministers, you agreed that the
20 Emperor could speak to Prince KONOYE, the incoming
21 Premier, about that, and you counseled him to so do,
22 didn't you?

23 A The meaning of this advice is that in the
24 light of the conditions prevailing at that time
25 special care and prudence should be exercised in

1 the selection of the ministers for Foreign Affairs
2 and for Finance, but there were no directions as
3 to who or which particular individuals should be
4 invested in such positions.

5 Q Now, incidentally, the Foreign Minister
6 chosen at that time was the late accused MATSUOKA;
7 is that correct?

8 A Yes.

9 Q And you who gave the advice as Lord Keeper
10 of the Privy Seal didn't say a single word about
11 advising the Prime Minister to be especially prudent
12 in the choice of his War Minister, did you? You didn't
13 consider that of like importance?

14 A Well, that point was not especially men-
15 tioned, but it was an important matter -- I did con-
16 sider that to be an important matter, but I did not
17 consider it especially.

18 Q You mean you didn't consider it especially
19 or you didn't consider it especially important?

20 A No, the matter was important, but I did
21 not especially mention it.

22 Q Well, you had just had an illustration
23 with the last cabinet that the cabinet fell because
24 of the action of the War Minister alone. You did
25 know that, didn't you?

1 A Yes.

2 Q Wasn't it infinitely more important that
3 the Prime Minister should be careful in his choice
4 of his War Minister than of all the rest of the cabi-
5 net put together as far as the cabinet remaining in
6 office?

7 A I considered it to be important, but not so
8 important -- not more important than all other minis-
9 ters put together. There has been a very long cus-
10 tom in existence with regard to the selection of
11 the War Minister. The War Minister was discussed and
12 recommended by the three big chiefs of the army, and
13 there being that formula which has been in effect
14 for a long time I did not, therefore, make any specific
15 mention of the War Minister at the time.

16 Q But you knew that regardless of the fact
17 that the Big Three of the War Ministry had to agree
18 upon the War Minister that there had been a method
19 of the Emperor successfully getting one of his two
20 choices named only a very few months before, in
21 August, 1939?

22 A Yes, I know that.

23 Q And what difference did it make who the
24 Foreign Minister was or who the Finance Minister was;
25 if the foreign policy was not carried out in

1 accordance with the views of the War Minister he
2 could resign and, failing to agree upon a successor,
3 could cause the whole cabinet to fall, couldn't he?

4 A Yes, such occurrences did happen.

5 Q I would like to ask you a question on that.
6 What would happen if the three, the Big Three -- and
7 you know what I mean by that, the War Ministry --
8 couldn't agree upon the successor to the War Minister;
9 what took place then?

10 A Of course, if three big chiefs of the army
11 did not agree there would be no War Minister, but it
12 is only natural to expect that, following a dis-
13 cussion of the Big Three, a candidate for War Minis-
14 ter is proposed.

15 Q Well, in the event they couldn't agree
16 wouldn't it be the plain duty of the Emperor to take
17 a hand in the matter then?

18 A As an actual problem there is no instance
19 of the Army Big Three submitting the question to his
20 Majesty, the Emperor -- such question.

21 Q Very well. If you advised the Emperor
22 he could direct the Big Three to appoint UMEZU or
23 HITA in 1939, why did you not advise him that he
24 could direct them to appoint one when they failed to
25 do so, and thus prevent the formation of a cabinet or

1 cause the fall of one by the resignation of the
2 War Minister?

3 MR. LOGAN: I object to that question, if
4 the Tribunal please. It assumes a state of facts
5 which do not exist. This witness testified just a
6 few minutes ago he was not in office, he didn't ad-
7 vise the Emperor on this, and he had given some
8 advice to KONOYE. This question assumes that he
9 advised the Emperor on this, which he didn't do.

10 MR. KEENAN: I think it is rather obvious
11 from the former testimony of this witness that when
12 he requested Prince KONOYE to convey his opinion to
13 General ABE he intended this to go to the Emperor,
14 since it was something for the Emperor to do.

15 Rather than consume unnecessary time,
16 Mr. President, I will withdraw it and put it in
17 a way that I think will not invite the criticism.
18

19
20
21
22
23
24
25

1 Q You knew, Mr. KIDO, when the second KONOYE
2 Cabinet was chosen in 1939, I believe in July -- 1940,
3 in July, that international matters were in a critical
4 state and that the appointment of the Prime Minister
5 and his War Minister was of very grave importance, did
6 you not?

7 A Yes.

8 Q You knew, briefly, that the YONAI Cabinet had
9 fallen because of the action of the War Minister in
10 resigning?

11 MR. LOGAN: If the Tribunal please, I object
12 to that question. It is contained in the accused's
13 affidavit with respect to the facts of that resignation,
14 and the prosecutor this morning has asked that same
15 question once before. How many times does he expect
16 to ask it?

17 MR. KEENAN: Mr. President, this may be a
18 tender point with this accused, but I will get on very
19 quickly with it. I know the witness has answered it
20 before in substance, but I want to be quite certain
21 of it.

22 THE PRESIDENT: Every Member of the Tribunal
23 is clear as to what he said, Mr. Chief of Counsel.

24 MR. KEENAN: I will not press the question.

25 Q I will remind you that you were Lord Keeper

1 of the Privy Seal at the time of the fall of the YONAI
2 Cabinet. The YONAI Cabinet was well known by you and
3 others to be a cabinet devoted to peace, is that not
4 true?

5 A Yes. But it was not a government which
6 specially had a platform for peace, but had peaceful
7 tendencies.

8 Q It was against the Tripartite -- It was against
9 an alliance with Germany, was it not; a military
10 alliance with Germany?

11 A It was opposed to a military alliance, but
12 the YONAI Cabinet, through its Foreign Minister ARITA,
13 was undertaking talks with Germany.

14 Q At least it was against the military alliance
15 with Germany?

16 A At that time the question of the military
17 alliance did not loom large.

18 Q I did not ask you that, Mr. KIDO. I asked you
19 if it was not well known it was against the military
20 alliance with Germany?

21 A It did not take an attitude of approving of
22 any alliance with Germany.

23 Q Well, can you answer the question? Was the
24 cabinet known to be against the military alliance?

25 A I explained it in the way I did because it

1 did not come out outwardly -- the attitude of the
2 cabinet did not come out outwardly as opposed.

3 Q Well, inwardly; did you know about it yourself?

4 A Yes, generally so.

5 Q What was it? Was it against the military
6 alliance of Japan with Germany, or was it indifferent,
7 or was it for it?

8 A Toward the end of the YONAI Cabinet, relations
9 with Germany were approaching a state of rapprochement,
10 and there were strong contentions that the conclusion
11 of alliance would be going too far. And it was in
12 that regard, in my recollection, that there was a wide
13 divergence of opinion with the army.

14 Q The army wanted a military alliance with
15 Germany, didn't it, at that time?

16 A My understanding is that the army was in favor
17 of a military alliance.

18 Q And the army wanted YONAI out?

19 A Yes.

20 Q And the technique employed was for the War
21 Minister to refuse to agree to a successor as another
22 War Minister in the YONAI Cabinet; that is true, isn't
23 it?

24 A Yes.

25 Q And the Emperor himself had great confidence

1 in YONAI and you knew it, is that not true?

2 A Yes.

3 Q Did you offer any suggestion to the Emperor
4 as to how he could get a new War Minister and still
5 keep the YONAI Cabinet, employing the same technique
6 as you suggested to Prince KONOYE in the preceding
7 August, I believe it was, that I have referred to in
8 the previous question?

9 A I have not proposed anything to Prince KONOYE
10 in the previous year.

11 Q Well, you did propose to Prince KONOYE that
12 he pass on to General ABE the suggestion how the Emperor
13 could go about it to get UMEZU or HATA named War Minis-
14 ter, didn't you?

15 A It was after the question arose. I merely
16 suggested to Prince KONOYE how the question could be
17 smoothly carried out -- I merely gave him my suggestion
18 as to how the matter might be smoothly carried out.

19 Q But you didn't make any such suggestion to
20 the Emperor for the preservation of the YONAI Cabinet
21 by solving the problem of how to get a War Minister
22 to take General HATA's place and still keep the YONAI
23 Cabinet in?

25 A No, I did not give any special advice.

 Q But your friend and boyhood companion, Prince

1 KONOYE, became the succeeding Prime Minister at that
2 time?

3 A Yes.

4 Q And it was your advice -- opinion, was it not,
5 that Prince KONOYE would be the ideal choice for
6 Premier of Japan at that particular time?

7 A Already about one month before that time there
8 were various reports and rumors going about with
9 regard to a political change in Japan, and at that time
10 voices were heard not only in political circles but
11 even among political parties and all other quarters
12 that the next Prime Minister should be Prince KONOYE.

13 Q Now, Mr. Witness, I asked you about what
14 you advised and what your view was; if you did not
15 advise and say that KONOYE was the ideal man? That
16 is a simple question. Can't I have a direct answer
17 to that?

18 MR. LOGAN: I submit, your Honor, that the
19 witness should be permitted to finish his answer.
20 The answers to all these questions are not simple.
21 You can't answer them yes or no.

22 THE PRESIDENT: If he had not finished his
23 answer, he may do so, but after lunch. We will adjourn
24 until half-past one.

25 (Whereupon, at 1200, a recess was taken.)

L
e
f
f
l
e
r
&
W
o
l
f1 AFTERNOON SESSION
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

- - -

KOICHI KIDO, an accused, resumed the stand
and testified through Japanese interpreters as
follows:

THE PRESIDENT: Mr. Chief of Counsel.

THE WITNESS: May I be permitted to continue
my reply?

THE INTERPRETER: The witness just said: "May
I continue to make my reply which I began before the
recess?"

THE PRESIDENT: You may reply, if you hadn't
finished.

MR. KEENAN: Mr. President, could we have the
preceding question read so we will know what he is
replying to?

THE PRESIDENT: The question to which Mr.
Logan objected to before luncheon.

(Whereupon, the last question was read
by the official court reporter.)

1 BY MR. KEENAN (Continued):

2 Q I merely want to know, Mr. KIDO, whether or
3 not that is the substance of the statement you made
4 that KONOYE was the ideal man to succeed after the
5 fall of the YONAI Cabinet?

6 MR. LOGAN: If the Tribunal please, the
7 witness was asked a question. He had not completed.
8 The Chief Prosecutor asked another question. I then
9 asked that he be permitted to answer the first question,
10 and there have been two questions since that. The
11 Tribunal granted him permission to finish the first
12 question, which was answered. That is the one he intends
13 to answer now.

14 MR. KEENAN: Mr. President, I cannot prevent
15 this witness from entering into long dissertations and
16 I do not want and I didn't ask for all the reasons why
17 he thought KONOYE was an ideal Prime Minister, because
18 that might take the rest of this year.

19 THE PRESIDENT: We do invite him to complete
20 any answer that he says he left unfinished, but it may
21 be we will have to intervene to keep the answer within
22 bounds.

23 MR. KEENAN: Well, Mr. President, I respect-
24 fully invite this Court's attention to the fact that
25 my question was whether he did so advise that he was

1 the ideal man, and didn't contain the word "why."

2 MR. LOGAN: To save time, I think we ought to
3 have the third from the last question read back, which
4 the Tribunal gave him permission to answer more fully.

5 THE PRESIDENT: Apparently the English
6 reporter in court didn't take that first question, but
7 it is the Japanese reporter who will have to read it
8 to the witness. I am trying to recollect it.

9 THE MONITOR: Japanese court reporter.

10 (Whereupon, the Japanese court
11 reporter started to read.)

12 MR. KEENAN: Just a minute. Mr. President,
13 I don't speak Japanese.

14 THE PRESIDENT: Don't interrupt, Mr. Keenan.
15 I am in control of the Court, with the concurrence of
16 my Brothers and under the Charter, and if I say the
17 Court has decided to hear the witness continue his
18 answer if he didn't complete it, I mean it. The Court
19 insists on that.

20 MR. KEENAN: Mr. President, with great respect,
21 I think that the President has totally misunderstood
22 my position. I respectfully am calling your attention
23 to the fact that the stenographer read the question
24 back, or part of it, in Japanese and not in English and
25 I do not speak both languages, and the Charter requires

1 both languages to be used.

2 THE PRESIDENT: I said the English reporter
3 was not in court; the reporter who took that particular
4 question. Our Interpretation Section, I am sure, will
5 come to our rescue and tell us what the Japanese
6 reporter has said.

7 MR. KEENAN: That is all I ask for, Mr.
8 President. I cannot follow without it.

9 (Whereupon, the Japanese court reporter
10 read.)

11 THE INTERPRETER: This is the interpretation,
12 verbatim, from the transcript made by the Japanese
13 reporter:

14 "My question to you, Mr. Witness, is whether
15 you advised, and believing that KONOYE was the ideal
16 man for the position of Prime Minister under the
17 circumstances; that is, whether you actually advised
18 that he was an ideal man."

19 MR. KEENAN: Now, Mr. President, with great
20 respect, the Court has addressed some remarks to the
21 Chief of Counsel. I want to make it clear that is all
22 I am asking, that the translation in Japanese be made
23 back into English so that I, Chief of Counsel, will be
24 able to follow the proceedings. Does the Court fully
25 understand that?

1 THE PRESIDENT: Whatever my understanding,
2 none of my colleagues has told me he disagrees with it.
3 But I have a suggestion which will probably save a lot
4 of time from one of my colleagues. It is simply this:
5 That you put the question again, Mr. Chief of Counsel.

6 MR. KEENAN: May I?

7 THE PRESIDENT: Yes.

8 BY MR. KEENAN (Continued):

9 Q Mr. KIDO, at the fall of the YONAI Cabinet or
10 about at that time, did you express, in substance, the
11 opinion that KONOYE was the ideal man to succeed the
12 former premier, YONAI?

13 A With regard to that, it was my desire just
14 a while ago to explain the political situation prevailing
15 at the time. However --

16 THE PRESIDENT: Now, in re-examination Mr.
17 Logan may get the explanation. If you don't want it,
18 Mr. Chief of Counsel, well, we don't want to hear it
19 at this stage.

20 A (Continuing) I do not recall whether I used
21 the word "ideal" or not. However, the desire of the
22 political world at that time and the popularity of KONOYE
23 in political circles at that time was extremely great.
24 And that being the situation, I conveyed to the Throne
25 the opinion that KONOYE was the most suitable man for
 the post.

1 Q Did you also state that KONOYE was satis-
2 factory unanimously to the Army group?

3 A I recall having spoken to that effect at a
4 gathering of the Senior Statesmen.

5 Q And, that was the fact, was it?

6 A Generally speaking, I believe it is a fact
7 because I heard about the attitude and opinion prevail-
8 ing in Army circles from the Vice-Minister of War at
9 the time.

10 With regard to that, I believe that the
11 situation would be better understood if I described
12 the background of events then prevailing. However,
13 in view of the fact that the President has directed
14 me not to -- in view of the President's remarks, I
15 shall refrain from making such an explanation.

16 However, I should like to state this much --
17 however, I should like to say this much and that is:
18 At this particular session of the Senior Statesmen
19 the name KONOYE was proposed by none other than the
20 former president of the Minseito, Baron WAKATSUKI,
21 and whereas the meetings of the Senior Statesmen
22 ordinarily took some four to five hours in other cases,
23 in this particular instance the meeting ended in thirty
24 minutes after unanimous agreement in favor of Prince
25 KONOYE.

1 Q Mr. KIDO, do you think that my question which
2 was directed to whether or not you reported that KONOYE
3 was satisfactory unanimously to all groups of the Army
4 called for the statement you just made?

5 A I believe that I have already replied to the
6 question to which you have just referred.

7 Q On page 156 and over on 157 of the English
8 translation, paragraph 204 of your affidavit, record
9 page 30,969 and continuing on pages -70 and -71, you
10 call attention to your diary entry of 13 October 1941
11 where you point out that the situation, and I quote,
12 "....was so delicate that the Emperor showed his concern
13 in discussing with me an Imperial Rescript in case he
14 was required to grant sanction to the opening of war."
15 You then note, and I quote, "The prosecution only
16 quoted the last paragraph of this entry in its exhibit
17 1149."

18 Why did you point out in your affidavit that
19 the whole part of your exhibit was not -- that the
20 whole part of your diary of that day was not included
21 in this exhibit, 1149?

23 A It was quoted because I believed it was
24 necessary to explain the portion preceding -- the
25 preceding portion was necessary, I believed, in ex-
 plaining that portion.

1 THE MONITOR: Just a moment, we have to
2 correct the interpretation of it: I believe it was
3 necessary to explain the situation described in the
4 last paragraph by including the previous portion.

5 Q Well, the last paragraph, which was the sole
6 subject of exhibit 1149, referred to the fact that
7 the accused SUZUKI visited you to talk about his
8 political views which must have contributed in some
9 way "to the making of a new turn in our political
10 condition," and you expressed your opinion to him,
11 and you stated, "Our conclusion of the talk was this:
12 The Premier should make an effort to promote mutual
13 understanding with the War and Navy Ministers."

14 Isn't that true?

15 A That is my meaning.

16 Q What did you refer to by the expression
17 "mutual understanding with the War and Navy Ministers"?

18 A At that time, the situation was this: That
19 the Minister of War advocated that, following the elapse
20 of the first part of October, the decision of September
21 6 should be carried into effect, that is, the decision
22 of the Imperial Conference of September 6 should be
23 carried into effect. The Minister of the Navy, on his
24 part, however, left the matter entirely in the hand
25

1 and discretion of the Prime Minister. However, it
2 became understood, as discussions went on, that the
3 leaders of the Navy Department were opposed to entry
4 into war between Japan and the United States. Such a
5 general situation was explained to me by SUZUKI,
6 President of the Planning Board, and thereupon I
7 told him that it would be extremely dangerous unless
8 the Prime Minister himself brought about and secured
9 understanding between the War and Navy Ministers.

10 Q When did the President of the Planning Board
11 tell you that? On the night of October 13, 1941, at
12 about 8 p.m?

13 A Yes.

14

15

16

17

18

19

20

21

22

23

24

25

K
a
p
i
e
a
u

&

K
n
a
p
p

1 Q Was that the first time that that information
2 had been conveyed to you?

3 A From Mr. SUZUKI?

4 Q Oh, Mr. Witness, from anybody.

5 A With respect to this very tense situation,
6 TOMITA, Chief Secretary of the Cabinet, came to me on
7 the previous day, that is the 12th, and reported to me
8 what happened at the so-called Ogikubo conference.

9 Q No, Mr. KIDO, I am asking you if you received
10 your notice of the difference between the army and navy
11 on the matter as to whether they should go to war from
12 Mr. SUZUKI that night, 13 October, or whether you knew
13 about it before.

14 A As I have already -- as I have just stated,
15 that was included in the report that I received with
16 regard to the Ogikubo conference on the 12th.

17 Q Well, then, the fact is, of course, that you
18 very well knew that the issue of war or peace and
19 the difference between the army and navy were well known
20 to you before SUZUKI came to see you on the 13th of
21 October 1941?

22 A Yes, I knew of it, and I heard of the con-
23 ference which took place on the 12th -- when I heard on
24 the 12th of the conference which had taken place. I did
25 not join this conference.

1 THE MONITOR: The witness says "Mind you, I
2 did not take part in the conference."

3 Q The 12th that you are talking about is the
4 12th of October?

5 A Yes.

6 Q And of course you knew that there had been a
7 conference on the 6th of September 1941 -- an
8 Imperial Conference?

9 A Yes.

10 Q And you knew the result of it, did you not,
11 on that day?

12 A Yes.

13 ^ And then, to state it briefly, will you tell
14 us, was it decided then what the action of Japan should
15 be with reference to war against the Western Powers?

16 A The items decided upon at the Imperial Con-
17 ference on the 6th of September included the following:
18 That war preparation shall be made up to the end of
19 October -- shall be concluded by the end of October;
20 that the Japanese-American negotiations shall be con-
21 tinued with every effort bent toward bringing about an
22 amicable settlement. However, the third point of the
23 decision was that if there was no possibility of an end
24 to the deadlock and hope of settlement of the issues as
25 a result of the Japanese-American negotiations by the

1 early part of October, then a decision for war shall
2 be made against the United States and Great Britain.

3 That generally, I think, was the -- will give
4 the gist of the decisions of that conference. I wish
5 that you would understand that I am stating this only
6 from my recollections and because of that I am not able
7 to give you the accurate words or the exact words used
8 in the decision.

9 Q It was determined then, was it not, that Japan
10 would strive to obtain fulfillment of her demands through
11 diplomatic means first? Is that right?

12 A Yes.

13 Q And the short of it was that if they were not
14 able to succeed in that, then the Western Powers would
15 be attacked-- that is, unless they were achieved by the
16 fore part of October.

17 A It was decided that if no amicable settlement
18 had been arrived at by the early part of October, then
19 a decision for war would be made.

20 Q And incidentally, while we are on that point,
21 I am referring to your diary entry of 6 September 1941,
22 which is exhibit 1135. To refresh your recollection,
23 I am reading from it.

24 Did you not state, "From 9:40 to 9:55 I visited
25 the Emperor in response to the Imperial summons. He

1 said that he would like to ask some questions at the
2 conference in his presence and then I advised His
3 Majesty that since HARA, President of the Privy
4 Council, would ask important questions on His
5 Majesty's behalf, the Emperor should only give a warn-
6 ing in conclusion that the supreme war command should
7 exert every effort in order to bring about a diplomatic
8 success, inasmuch as the present decision was such an
9 important one that it might lead to a war in which our
10 national fortunes would be staked."

11 Was not the Emperor showing some anxiety at
12 that time to ask questions on his very own?

13 A Before I reply to that question, there was a
14 word "only" in the English text of the affidavit just
15 read by Mr. Chief Counsel. I should like to state that
16 the word "only" is not found in the diary -- in that
17 entry of the diary -- and I should like to have the
18 matter checked into.

19
20
21
22
23
24
25

1 Q "ell, Mr. KIDO, I have not purported in my ques-
2 tion to quote you. I asked the question -- maybe you
3 misunderstood it-- if it wasn't apparent to you that
4 the Emperor of Japan really wanted to ask some ques-
5 tions himself. That is all I asked.

6 A Yes. And with regard to this matter, the
7 President of the Privy Council had already given
8 me word that he would like to ask the very questions
9 with which the Emperor himself was concerned. That
10 being the case, that is, inasmuch as HARA probably
11 would be asking the questions which the Emperor himself
12 had desired to ask, I advised His Majesty that it would
13 be more important for him to counsel the Supreme
14 Command to be one with the government, that is, in
15 cooperation with the government try to bring about a
16 peaceful solution.

17 Q Mr. KIDO, you stated a moment ago that you
18 made the suggestion in reply to the Emperor that he
19 not ask the questions and that they be asked through
20 Mr. HARA, because Mr. HARA had said, or because Mr.
21 HARA was going to ask those questions, anyway. I
22 call your attention to page 145 of your affidavit,
23 paragraph 192. It is the fifth line approximately
24 from the top of the page in the English version.

25 Didnt you a few days ago from this very stand

1 say under oath exactly the opposite, as I quote:
2 "Before being summoned by the Emperor the next morn-
3 ing, September 6, 1941, I suggested to Mr. HARA that
4 he ask some questions at the Imperial Conference
5 pointing towards emphasis on continuing of diplo-
6 matic negotiations rather than preparing for war"?

7 "Were you engaged in some type of mind reading,
8 as far the Emperor of Japan was concerned, in antici-
9 pating his wishes before you even saw him?

10 A No. As a matter of fact, at that time I had
11 an audience on the 5th, when this question arose; and
12 as I think I have written the matter here, the agenda
13 or the proposal submitted before the Imperial Confer-
14 ence first had the item relating to war preparations,
15 and the second item was concerned with diplomatic
16 negotiations, and it was believed that there was some-
17 thing awfully strange about the order of these two
18 items; and on the 5th, when Prime Minister KONOYE and
19 the two chiefs of staff were granted an audience by
20 His Majesty the Emperor, an inquiry on this very matter
21 was addressed to Prime Minister KONOYE.

22 Such being the circumstances, Mr. HARA, Presi-
23 dent of the Privy Council, called me by telephone on
24 the morning of the 6th and asked, "What do you think
25 should be done about this?" Thereupon I told Mr.

1 HARA, the President of the Privy Council, that there
2 seemed to be doubt whether or not the emphasis was
3 being placed on war preparations or on the continua-
4 tion of diplomatic negotiations. There being such a
5 doubt, I proposed that he might ask questions on this
6 very point at the Imperial Conference, and when I
7 appeared for work at the Imperial Palace in the morn-
8 ing, I received a summons from His Majesty, and when
9 I appeared in the presence of His Majesty, he asked
10 me whether he might not ask the very questions which
11 I had already discussed previously, or just a while ago
12 with Mr. HARA.

13 Thereupon I said that as a matter of fact I
14 had discussed the very question with Mr. HARA, and
15 inasmuch as Mr. HARA would be asking the questions,
16 there would be no need for His Majesty to address them.
17 However, a more important point than this, I told His
18 Majesty, was whether or not the High Command itself
19 was going to be dead serious in carrying on diplomatic
20 negotiations; and so my advice to the Throne was that
21 I should like to have His Majesty, at the conclusion
22 of the meeting, issue a warning to the Imperial confer-
23 ees, and rather than ask questions on his part, to
24 take a more positive action by issuing such a warning
25 at the Imperial Conference.

Q Now, Mr. KIDO, after all that talk may I call
1 your attention to the fact that the questions were
2 not asked even by Mr. HARA and answered by the people
3 there? Isn't that correct, that the questions were
4 asked but not answered?

5 THE INTERPRETER: "hat was the last question?"

6 ("hereupon, the last question was
7 read by the official reporter.)

8 MR. KEENAN: Mr. President, I want to withdraw
9 the question -- there is evidently some confusion --
10 to save some time.

11 Q "ere the questions answered?

12 A I have no direct knowledge, because I did not
13 attend that Imperial Conference. However, according to
14 what I heard later, the question was made by Mr.
15 HARA, and to HARA's questions the Minister of the Navy,
16 OIKAWA, gave an answer. But there was no reply from
17 the High Command. Therefore His Imperial Majesty the
18 Emperor expressed extreme regret that the High Command,
19 on its part, had said nothing; and just at that moment
20 His Imperial Majesty recited a poem composed by the late
21 Emperor MEIJI, and addressing the representatives of the
22 High Command, told them that they should -- they must
23 exert all their strength and energy in cooperating
24 toward the successful conclusion of the diplomatic

negotiations.

1 THE PRESIDENT: That appears in paragraph
2 193 of his affidavit.

3 MR. KEENAN: The point I am trying to make
4 is that the Emperor suggested that he ask some ques-
5 tions, that this witness advised him not to and told
6 him to take another course, and as a result the ques-
7 tions were not asked at the Imperial Conference, Mr.
8 President.

9 MR. LOGAN: May I suggest, if the Tribunal
10 please, that the Chief Prosecutor save his summation
11 until the end of the case.

12 THE PRESIDENT: We will listen to specific
13 objections to specific questions, but we won't pass
14 on any advice from defense counsel to the Chief of
15 Counsel.

16

17

18

19

20

21

22

23

24

25

G
r
e
e
n
b
e
r
g
&
Y
e
l
d
e
n

1 MR. KEENAN: Mr. President, I shall earnest-
2 ly try to comply with the reasonable requests of
3 defense counsel if I overstep the bounds.

4 Q To advert again to page 157 of the affi-
5 davit, the paragraph referred to ending on the next
6 page, "mutual understanding with the War and Navy
7 Ministers," I will ask the witness how could there
8 be a mutual understanding unless one of the two
9 sides gave way?

10 A Not being in the government, I would not
11 know the details or the actual particulars of various
12 affairs in the government. I simply made the talk
13 with President SUZUKI of the Planning Board as a
14 basis for recommending that further efforts be made
15 with the aim of saving the situation.

16 Q What I am suggesting to you, Mr. KIDO, is
17 this: that it wasn't anything complicated; it was a
18 matter of almost immediate war or peace, and that the
19 Army was taking the war side and the Navy was taking
20 the peace side, and you were suggesting that they
21 come to a mutual understanding. It would have to be
22 either war or peace, wouldn't it?

23 A It is for that reason that I counseled that
24 further discussions and talks be conducted.

25 Q Well, I didn't ask you what reason it was

1 that caused you to counsel anything. I asked you
2 if it wasn't a simple matter of making a decision
3 between war and peace with the Army on one side say-
4 ing war and the Navy on the other saying we don't
5 want to go to war at least now. Wasn't that the
6 fact? Can't we have that directly answered at least?

7 A In the light of the actual situation then
8 prevailing, a simple answer could not possibly be
9 given.

10 MR. KEENAN: I shall not press that point
11 any further in the questions at this time, Mr.
12 President.

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Q Now, you have suggested, I think, in your
2 affidavit rather clearly that the whole of that entry
3 should have been included in this exhibit and you in-
4 serted the entire diary entry of that day, including
5 the second paragraph on page 157 which contains the
6 statement that you say the Emperor of Japan made to
7 you as his Lord Keeper of the Privy Seal on the 13th
8 of October 1941, is that not true, and I am calling
9 your attention to the language you used quoting the
10 Emperor of Japan, or substantially quoting him, in
11 which you say he said to you: "In case we decide
12 on war with the United States and Britain, we must
13 study well conditions in Europe, especially the
14 truth underlying the peace talks between Britain
15 and Germany and the latter and Russia. We must,
16 through diplomatic maneuvers, stop Germany from
17 concluding an individual peace. We must have her
18 assist us in our war with the U.S. From the beginning
19 we must also make plans as to what to do at the termin-
20 ation of the war."

21 I am suggesting to you that that language
22 or that part of your diary had no connection with the
23 part quoted in exhibit 1149 of your discussion with
24 SUZUKI but is now inserted by you deliberately in your
25 testimony for the purpose of causing this Court and

1 others to believe that the Emperor of Japan himself
2 was studying the question as an executive and
3 making decisions of his own, coming to his own con-
4 clusions, in attempting to escape your own responsi-
5 bility by transferring it to the Emperor of Japan.
6

7 MR. LOGAN: I object to that question, if
8 the Tribunal please, on the ground it is argumentative
9 and immaterial to any of the issues in this case.

10 THE PRESIDENT: I do not regard it as
11 argumentative. I think it should be answered if
12 pressed.

13 Answer the question, Witness.

14 A Now to explain the reason why I included
15 this portion of my diary here in my affidavit at
16 that time, that is to say, the period following the
17 OGIKUBO conference on the 12th of October was a period
18 in which there was extreme tenseness, not to say
19 confusion, in political circles in Japan, and the
20 situation developed to the point wherein His Majesty
21 himself may be forced into circumstances where he
22 would have to decide on war even though his feelings
23 and sentiments did not permit him to do so. In those
24 days there was even fear on our part that the Emperor
25 would have to decide on a war which he himself did not
desire; but in case the eventuality occurred and an

Imperial Rescript will have to be proclaimed the Emperor expressed desire that absolute care be exercised in order to reflect the innermost and actual feelings of the Emperor in that rescript. As a result of such anxiety and worry on the part of the Emperor there was various discussion which reflected that feeling on his part, and so I entered them in my diary and that is what I state here in this diary. I have placed it in this affidavit in order to make clear the imminent sense of war then prevailing in government and court circles at that time.

Q So that in order to make clear the Emperor's desire for peace and unwillingness to go to war, you found it necessary to put the language in this diary that the Emperor said to you: "We must, through diplomatic maneuvers, stop Germany from concluding an individual peace. We must have her assist us in our war with the U.S." Is that right?

A That is not my meaning at all. I merely wished to show to what extent the Emperor had to worry about the situation.

THE PRESIDENT: We will recess for fifteen minutes.

(Whereupon, at 1445, a recess was

1 taken until 1500, after which the
2 proceedings were resumed as follows:)

3 MARSHAL OF THE COURT: The International
4 Military Tribunal for the Far East is now resumed.

5 THE PRESIDENT: Mr. Chief of Counsel.

6 CROSS-EXAMINATION

7 BY MR. KEENAN (Continued):

8 Q If the Emperor said that he didn't want the
9 war, why didn't you then say to him: "In that case
10 refuse your sanction to it and refuse to sign any
11 rescript?"

12 A As I have said before, under the Japanese
13 system a decision made by the Cabinet and the High
14 Command cannot be vetoed by His Majesty the Emperor.

15 Q You have told us that it hadn't been vetoed,
16 but why couldn't it be vetoed? What was there to stop
17 it?

18 A As an actual question, nothing arose at that
19 time. But it did arise on the eighth of December, and
20 at that time the explanation given by the government was
21 that there was no alternative but to take up arms for the
22 defense -- self-defense and existence of Japan. And to
23 that advice given by the Cabinet the Emperor was not in
24 any position to issue a rejection.

25 Q Why not? What was there to stop him?

1 A It wasn't a question of stopping or not stop-
2 ping; it was a custom long prevailing in Japan and the
3 constitutional practices. For instance, you will find
4 the same to be the case if you review the history of the
5 Russo-Japanese War. At that time His Majesty the Emperor
6 MEIJI hesitated in connection with the decision reached
7 by the Imperial Conference at that time. However, he
8 gave his approval to the decision inasmuch as it was
9 reached by the government and the High Command jointly.
10 However, in this particular instance His Majesty the
11 Emperor returned to a carte blanche the Imperial Con-
12 ference decision of the sixth of September and took
13 measures to do that -- in this instance His Imperial
14 Majesty the Emperor went so far as to return to a carte
15 blanche the Imperial Conference decision of September
16 sixth.

17 THE PRESIDENT: Where did he get that authority?

18 THE WITNESS: In this instance the wishes and
19 desires of His Majesty were conveyed to the Prime
20 Minister, and the cabinet over which this Prime Minister
21 presided subjected the matter to re-examination. Such
22 a measure was not to be found at all even in the MEIJI
23 era, and in this instance can be considered to be a
24 rather advanced step that was taken. And, therefore,
25 again as a result of reconsideration and re-examination

1 the incident of the eighth of December broke out. And
2 inasmuch as the position of Japan, as decided by the
3 government and the High Command was that it was for
4 the self-defense and existence of Japan, His Majesty
5 could not veto the decision.

6 Q And is the attack upon Pearl Harbor to go down
7 in your history as another incident? Is that what you
8 refer to?

9 MR. LOGAN: I object to that question, if the
10 Tribunal please. It is immaterial to any issue in this
11 case.

12 MR. KEENAN: I won't press that, Mr. President.

13 Q But I would like to have this witness, for the
14 less sophisticated, explain exactly what he means by
15 the carte blanche move of the Emperor with reference to
16 September sixth so that we get it clearly for all of us.

17 A The words used at that time I have already set
18 forth in my affidavit.

19 Q Carte blanche?

20 A No, carte blanche, or to start afresh with a
21 clean slate is just a description; it doesn't necessarily
22 mean that I used the word in my affidavit.

23 Q Translation difficulty, I am sorry.

24 Well, in any event you were in the Emperor's
25 presence and your advice was sought in the last lingering

1 hours of the KONOYE Cabinet, the last KONOYE Cabinet,
2 is that true?

3 A At that time, as was customary, there were
4 frequent summons and frequent audiences of various
5 subjects came up for discussion between us.

6 Q You are not suggesting, Mr. KIDO, that these
7 were ordinary times, are you, by that answer?

8 A No, I didn't necessarily say it was ordinary
9 times.

10 Q To refer to Prince KONOYE's Cabinet and your
11 own desire for peace, and the intense struggle that you
12 have described against the militarists, you joined the
13 first KONOYE Cabinet in October of 1937, is that
14 correct?

15 A Yes.

16

17

18

19

20

21

22

23

24

25

1 Q And both you and Prince KONOYE were strong
2 advocates of peace at that time and had been before,
3 is that right?

4 A Yes.

5 Q And that included peace toward your Chinese
6 neighbor too, is that correct?

7 A Yes.

8 Q Is it not a fact that when this KONOYE, KIDO-
9 KONOYE Cabinet first went into power there was one
10 brigade of approximately 5,000 Japanese troops in all
11 of China proper? Do you deny that?

12 A I wasn't a member of the KONOYE Cabinet at the
13 time of its formation.

14 Q No, but you joined it within three or four months
15 afterwards, isn't that true?

16 A Yes.

17 Q And you are a reasonably well informed man of what
18 took place within those four months from the time of the
19 inception of the KONOYE Cabinet until you joined it in
20 October, isn't that right?

21 A I didn't have any detailed information at my
22 disposal at the time because I was then an official in
23 the Imperial Household Department and occupying the
24 position of Director of the Board of Peerage.

25 Q Well, to avoid further misunderstanding,

1 when you became Minister of Education in the KONOYE
2 Cabinet in October of 1937 you also became a minister
3 of state, is that not right?

4 : A No, the Minister of Education was a minister of
5 state.

6 Q Well, we agree it is a question of terminology
7 or understanding of the word. What I am pointing to is
8 that in the Japanese Cabinet at that time the Minister
9 of Education was more than the head of the educational
10 department or bureau. He became a general minister of
11 state in accordance with the constitution of Japan, did
12 he not?

13 A Yes.

14 Q What was the significance of becoming a minister
15 of state?

16 A I can't quite comprehend the meaning of the
17 question that you have just proposed.

18 Q There is a constitutional provision precisely
19 upon that point and you know it, do you not?

20 A Yes, I do.

21 Q What is it? State it, please.

22 A That a cabinet is constituted by the several
23 ministers of state and that these state ministers are
24 appointed in their status as ministers holding the
25 respective portfolios which constitute the cabinet, and

1 the various ministries of the government are regulated
2 by regulations which govern them.

3 Q Is that all? You don't recall that provision
4 of the constitution -- I will get it for you in a moment --
5 that says that a minister of state is responsible for
6 giving advice, I believe it is, to the Emperor and shall
7 be held responsible therefor? Do you remember that clause?
8 I will read to you Chapter 4 of the Constitution of Japan
9 at the time, in 1937 and 1938: "The Ministers of State
10 and the Privy Council. Article LV. The respective
11 Ministers of State shall give their advice to the Emperor,
12 and be responsible for it." Do you recall that?

13 A Yes, I know it.

14 Q And of course it is obvious that they were collec-
15 tively responsible for what the cabinet did. That is
16 true too, isn't it?

17 A Yes, that is how it is regarded.

18 Q And you didn't meet with the Prime Minister
19 singly; you met with him in cabinet meetings, cabinet
20 councils, and you discussed openly and before the various
21 members of the cabinet the common problems of the
22 administration. Isn't that true?

23 A Cabinet meetings are generally held twice a
24 week. On these occasions of cabinet meetings various
25 discussions are held but generally speaking the details

1 pertaining to any particular ministry were left to the
2 competent minister of that ministry and his explanations
3 generally passed the cabinet.

4 Q Well, talking of details do you know that the
5 Japanese troops in China proper during the First KONOYE
6 Cabinet increased from one brigade of approximately
7 5,000 to more than a million, thirty divisions with
8 more than a million Japanese troops in China proper?
9 Those aren't details. Did you know that?

10 A Such matters were never brought up for dis-
11 cussion at a cabinet meeting.

12 Q Well, regardless of whether they were or not,
13 isn't it true and didn't you discuss that with Baron
14 HARADA that there was approximately 1,600,000 Japanese
15 troops in China proper during the First KONOYE Cabinet?

16 A With regard to the figure 1,600,000, I think
17 there is an entry in my diary in connection with a talk
18 I had with KONOYE. I do not have any recollection as
19 to what kind of talk I had with HARADA.

20 Q Well, whether you told it to HARADA or wrote
21 it in your diary, the important thing is that you did
22 know on the 12th of December, 1938 -- I am giving the
23 date of your diary entry -- that as you state ITAGAKI
24 had sent 1,600,000 men overseas, is that correct?

25 A I do recall having penned that in my diary. Al-
though I learned of this later, I feel that the figures

D 1 1,600,000 were a bit too large.
u 2
d 3
a 4
& 5
S 6
p 7
r 8
a 9
t 10
t 11

Q Well, even though we take off a mere hundred thousand or two, there were well over a million and a quarter there, wouldn't you say?

A From what I learned later, I think it was under one million.

Q Would you approximate the number for us, because it may not be too important. There were at least 700,000, were there not?

A Well, I heard of this much later and entered it in my diary much later; but the War Minister spoke of decreasing the strength of the Japanese troops from 700,000 to 600,000 -- correction: to 650,000, and, therefore, I feel that the figure 1,600,000 is quite a bit too large.

Q Well, haven't you found it to be a practice by this time, Mr. KIDO, that in dealing with the Chinese around that period or two, the Japanese officials said one thing and did another?

MR. LOGAN: I object to that, if the Tribunal pleases. It is too general and meaningless unless the Chief Prosecutor will specify some particular instance that he has in mind.

MR. KEENAN: Mr. President, I would have to describe what I consider almost the entire conduct of

1 Japan in China for many, many years. It would be
2 too much of a burden for me to undertake at this moment.

3 I press the question.

4 THE PRESIDENT: The answer to such a question
5 might be unduly long, too. I do not think we are going
6 to get any benefit from any reply the witness is likely
7 to give. It is too general, Mr. Chief of Counsel.

8 MR. KEENAN: Profiting from the wise sug-
9 gestion of the Court, I will ask now, in a specific
10 matter, that the witness be handed his own diary, con-
11 taining the entry of December 12, 1938.

12 While the witness is examining, as I see
13 he is from my distance, the entry of December 12,
14 1938, of his own diary, may I have IPS document 1632
15 marked for identification.

16 I will ask that this document, IPS document
17 1632-PP, be handed to the witness at this time. He
18 does not need the Japanese translation.

19 (Whereupon, a document was handed
20 to the witness.)

21 Q Have you examined that to determine whether
22 that is a part of your diary, to save time?

23 A Yes, it is.

24 Q And that is the English and the Japanese, too;
25 or have you compared the two? If it is going to take

any length of time, please do not bother.

1 A Comparing the English and the Japanese, I
2 have no qualifications nor confidence now to confirm
3 the correctness of the English text.

4 MR. KEENAN: We now offer that in evidence.

5 MR. LOGAN: If the Tribunal please, at this
6 late stage the prosecution is offering in evidence,
7 apparently, an entry from KIDO's Diary to prove how
8 many troops entered into China on a certain date. It
9 is not offered for the purpose of impeachment of this
10 witness, because he has admitted it.

11 They have had this diary since December, 1945.
12 If it is offered for the purpose of trying to show how
13 many troops were in China on a certain day, I should
14 think that there is some better evidence that the
15 prosecution might have in order to prove that fact.
16 And, furthermore, this witness has said that it is
17 merely what he heard, and that he did not hear it at
18 a meeting of the cabinet. In other words, it is too
19 late for the prosecution to start offering new evi-
20 dence on new matter in the defense case.

21 I might also add, if the Tribunal please,
22 that if this method of offering evidence is continued,
23 this case will never end. We will have new matter to
24 meet all the time.

THE PRESIDENT: This matter has arisen before, Mr. Chief of Counsel; I don't know whether it was in your time. But we have decided not to be bound by that impeachment limitation to which Mr. Logan refers. If in the course of cross-examination the witness is shown a document and he admits the truth of its contents, then it can be tendered by the prosecution counsel if the contents are relevant and material. That is a rule in British courts which we have been applying here and I know of no desire on the part of my colleagues to depart from it. There is not a great deal of this evidence, in any event.

13 There is no objection on the ground that the
14 witness says that he does not acknowledge the contents
15 of the document to be true.

16 The objection is overruled, and the document
17 admitted on the usual terms.

18 MR. KEENAN: Mr. President, I was rather
19 surprised at the objection to offering this diary,
20 in view of paragraph 3 on page 2, where the witness
21 seems to complain of the fact that out of a total
22 5,920 entries, we had only offered 123 from his diary,
23 and we thought that he would welcome these supplements
24 rather than object to them.

THE PRESIDENT: That is a majority decision.

1 CLERK OF THE COURT: Prosecution document
2 1632-PP will receive exhibit No. 3341.

3 (Whereupon, the document above
4 referred to was marked prosecution exhibit
5 No. 3341 and received in evidence.)

6 MR. LOGAN: May we have that referred to
7 the Language Section, your Honor?

8 THE PRESIDENT: It is referred accordingly.
9 In the meantime, it may be read.

1 MR. KEENAN: With the permission of the
2 Court I will read from a part of it. It is from KIDO's
3 diary, 12 December 1938.

4 " At 3 p. m. I visited the Premier at his
5 private residence at Ogikubo. He said that neither
6 the army stratagem, already being devised, was very
7 reliable nor the situation in various quarters was
8 very satisfactory. The situation was, as it is
9 called, at a deadlock. The Premier, then, con-
10 sulted me about his intention to resign, taking
11 advantage of the long-term construction having al-
12 ready been started. I replied that I could hardly
13 agree to the Premier's opinion immediately, and
14 said that the most responsible person at present
15 was the War Minister who has dispatched an army of
16 1,600,000 strong overseas, and therefore the
17 resignation of the Premier without complete under-
18 standing and consent by the War Minister would bring
19 the latter to bay, which would be undesirable in
20 view of the Premier's relations with Lieutenant
21 General ITAGAKI. Furthermore, I told him that it
22 was reported that Wang Chao-ming, on the 18th, would
23 escape from Chungking, and for the present it was not
24 good to disclose any political unrest in our country.
25 Wishing to consult the War Minister myself, I asked

1 the Premier to leave the matter to me. The Premier
2 finally consented."

3 Q Now, having recalled to you by your
4 reading and my reading it, do you have any doubt
5 now that you were reasonably well informed that
6 there were approximately 1,600,000 Japanese troops
7 dispatched to China under the War Ministry of
8 Lieutenant General ITAGAKI?

9 A At that time I had heard that there were
10 about 1,600,000 troops in China; but I have said
11 before later on I had a feeling that it was a mis-
12 take in memory on my part when I made the entry.

13 Q Well, you were recording a conversation
14 that you had with the Prime Minister of Japan. It
15 wasn't a casual affair, was it?

16 A Now, what I am trying to say now is that
17 I am not denying that I had a talk with KONOYE. I
18 am only stating that it was later on that I dis-
19 covered that I may have made a mistake in the
20 figures.

21 Q You say in this exhibit 3341, your diary,
22 that you thought that Premier KONOYE's resignation
23 would be undesirable because it would bring the
24 War Minister to bay. What do you mean by that?

25 A That is to say, KONOYE was saying that he

1 was very much impatient and desired to resign from
2 office. As ITAGAKI himself testified from this stand
3 as a witness, at the time ITAGAKI was invited to serve
4 as War Minister, KONOYE sent a special emissary to China
5 to submit the request to him with a desire that he
6 would like to have ITAGAKI serve as War Minister in
7 an effort to settle the China Affair. Such being the
8 circumstances under which ITAGAKI entered the cabinet,
9 I advised against taking any rash or surprise measures
10 or actions against ITAGAKI, and I counseled Prince
11 KONOYE to wait until I had a full talk with ITAGAKI.
12 At KONOYE's request I had War Minister ITAGAKI come
13 to my house on the 18th of June and had a talk on
14 bringing the China Affair to an early consummation;
15 and I learned at that time of War Minister ITAGAKI's
16 very strong desire to bring the incident to a settle-
17 ment as quickly as possible.

18 MR. KEENAN: Mr. President, I am asking this
19 witness about an entry made on December 12, and I ob-
20 ject to the witness's rambling on and going to a later
21 period and bringing in matters that were not the subject
22 of the inquiry. I ask that the witness be counseled to
23 answer as briefly as he can.

24 THE PRESIDENT: Listen carefully to the ques-
25 tions, witness, and answer them very briefly. You may

add an explanation unless you are stopped.

1 THE WITNESS: It seems that Mr. Chief of
2 Counsel said something to the effect that I had re-
3 ferred to a period much later than the 12th of Decem-
4 ber, but I was referring to a date prior to that;
5 that is to say, June 18, 1938.

6 Q Mr. KIDO, on the 12th of December, 1938,
7 were the relations between Premier KONOYE and War
8 Minister ITAGAKI strained?

9 A I do not think that such a relation existed.

10 Q Your position at that time was Minister of
11 Education, was it not, in the cabinet?

12 A I was Minister of Welfare.

13 Q Well, Welfare. Did that have to do with the
14 troop movements in China and the affairs with General
15 ITAGAKI?

16 A No, it had no connection.

17 Q But you undertook to straighten the matter out
18 between ITAGAKI, the War Minister, and KONOYE, the
19 Prime Minister; isn't that true?

20 A I was asked to exert my efforts as his friend,
21 and therefore I did it -- as I was asked to do a favor
22 for him, that is KONOYE, as a friend, I undertook this
23 assignment.

24 Q Would that illustrate very well the relationship

1 between KONOYE and yourself in matters political in
2 the cabinet and out?

3 A It is an illustration to show that I assisted
4 KONOYE as a friend.

5 MR. KEENAN: Mr. President, before we adjourn,
6 I have been asked by the counsel for the accused, or
7 some of them, that the matter be clarified as to when
8 the witnesses brought here from the Union of the Soviet
9 will be presented in court, because the record is not
10 exactly clear as to whether it will be at the end of
11 this cross or at the end of KIDO's presentation of his
12 personal defense.

13 THE PRESIDENT: When the accused returns to
14 the dock, Mr. Chief of Counsel.

15 We will adjourn until half-past nine tomorrow
16 morning.

17 (Whereupon, at 1600, an adjournment
18 was taken until Tuesday, 21 October, 1947, at
19 0930.)

20
21
22
23
24
25